



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUN 05 2019

David Vitale, Director
Division of Materials Management
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7256

Re: The New York State Department of Environmental Conservation (NYSDEC) RCRA
Subtitle C Hazardous Waste Management Program Final Progress Report dated April 17,
2019 for the period of April 1, 2018 to March 31, 2019; Grant #D-96292418

Dear Mr. Vitale:

The United States Environmental Protection Agency (EPA) has reviewed the Final Progress Report for the New York State RCRA Subtitle C Hazardous Waste Management Grant for the period of April 1, 2018 to March 31, 2019, submitted by NYSDEC electronically on April 17, 2019. This report covers NYSDEC's accomplishments on permitting, corrective action, quality assurance, state program development, waste minimization, and compliance and enforcement. We appreciate the accomplishments and narratives provided in the report, and we approve the report with the following enclosed comments.

EPA appreciates NYSDEC's continued commitment to the grant work plan goals. We want to thank you, your staff and the staff from the Division of Environmental Remediation for all the work that NYSDEC has done during this grant period.

Please note that we have realigned into a new division and we look forward to discussing the details of the realignment in our upcoming program review meeting scheduled for June 14, 2019.

If you have any questions, please call me any time at (212) 637-3315, or have your staff contact Betsy Lopez, our grant project officer, at (212) 637-3194.

Sincerely yours,

A handwritten signature in black ink, which appears to read "Ariel Iglesias", is written over a horizontal line.

Ariel Iglesias, Acting Director
Land, Chemicals and Redevelopment Division

Enclosure

**EPA's Comments on the NYSDEC Final Progress Report for the period of 04/01/2018 to 03/31/2019
Grant #D96292418**

I. Better Waste Management and Restoration of Contaminated Sites, E. Expanded Public Involvement Activities:

EPA commends NYSDEC for creating a new webpage to support e-Manifest outreach activities and updated existing hazardous waste manifest webpages to address e-Manifest related program changes.

I. Better Waste Management and Restoration of Contaminated Sites, G. IT Integration:

EPA continues to appreciate DMM's continuing participation in the national effort to implement electronic manifesting, as well as NYSDEC's effort to keep EPA Region 2 informed of any formal correspondence between DEC and the e-Manifest Workgroup.

II. Credible Deterrent to Pollution and Greater Compliance with the Law, A. Compliance Inspections:

EPA Region 2 questions NYSDEC commitment to inspect 14% of their LT LQG universe (115 LQG inspections of NYSDEC defined 810 Long-Term LQGs). EPA counted 206 NYSDEC LQG inspections by End of Year and considers the NYSDEC Long-Term LQG Universe to be more in the order of 400-500 facilities (2 of the last 3 years LQG generation of hazardous waste). NYSDEC meets the 20% commitment of LQG inspections using EPA's methodology.

NYSDEC reported 10 LDF inspections by End-Of-Year, however, EPA's CEI inspection report shows only 2 LDF inspections and 6 OAM and GME inspections by End-Of-Year SFY2019 as follows.

ID	NAME	GEN	STR	CITY	TSD	TYP	INSPEC	AGENCY	EVALDATE
NYD080336241	CECOS INTERNATIONAL INC	LQG	NIAGARA FALLS BLVD	NIAGARA FALLS	---	OAM	NYKJN	S	11/8/2018
NYD049836679	CWM CHEMICAL SERVICES LLC	LQG	BALMER RD	MODEL CITY	L-ST-	OAM	NYKJN	S	10/25/2018
NYD002106276	FORMER BELL AEROSPACE	LQG	NIAGARA FALLS BOULEVARD	WHEATFIELD	---	OAM	NYSRN	S	5/23/2018
NYD060545209	REALCO INC	LQG	SPRING STREET RD	WATERVLIET	---	OAM	NYRCY	S	12/11/2018
NYD066832023	SABIC INNOVATIVE PLASTICS US LLC	LQG	NORYL AVE	SELKIRK	---	GME	NYLWR	S	8/21/2018
NYD002134880	TECUMSEH REDEVELOPMENT INC	LQG	HAMBURG TNP	LACKAWANNA	---	OAM	NYSRN	S	5/17/2018

DEC's following inspection table has been modified to include EPA counts. EPA counts 18 Commercial TSD inspections and NYSEDC reports 19 Commercial TSD inspections. Our staff are working towards resolving discrepancies in our data.

Types of Inspections	Full Year Commitment	4/1-9/30 Actual	10/1-3/31 Actual	Totals	EPA Totals
Land Disposal Facilities	10	1	9	10	8
Commercial Facilities	11	9	10	19	18
Boiler/Furnace (BIF)	1	0	1	1	1
Incinerators	3	1	3	3	4
Other TSDFs	4	1	6	7	5
Large Quantity Generators (LQG)	115	82	78	160	206

Other Generators/Non-Notifiers	356	155	170	325	283
TOTAL	482	248	273	521	489

II. Credible Deterrent to Pollution and Greater Compliance with the Law, B. Enforcement:

Region 2 is interested in knowing the reason for the shortfall against the commitment of warning letters. Our staff are working towards resolving discrepancy in NYSDEC reported enforcement output and EPA's actual numbers as reported in RCRAInfo.

	ENFORCEMENT OUTPUT GOALS				
Type of Action	Commitment	4/1-9/30	10/1-3/31	4/1-3/31	EPA Counts
		Actual	Actual	Actual	Actual
Warning Letters	225	116	53	169	171
Orders/Initial Actions	54	21	39	60	64
TOTAL	255	137	92	229	235

II. Credible Deterrent to Pollution and Greater Compliance with the Law, E. Maintain Manifest System:

EPA commends NYSDEC staff's efforts in making EPA's e-Manifest a functional system. EPA commends NYSDEC staff's efforts in reaching a workable solution to the issue of Con Edison manhole cleanout RCRA ID issuances. Please provide a status of the Consent Order used to address this issue with Con Edison.

II. Credible Deterrent to Pollution and Greater Compliance with the Law, H. Financial Assurance: EPA

Region 2 appreciates NYSDEC's hard work in being responsive to the NYS RCRA C Financial Assurance regulated community; the dozens of FA cost estimate and mechanism records that were entered in the RCRAInfo FA module by NYSDEC staff in the first half of the NY SFY2019; and NYSDEC's responsiveness in providing NY FA instruments for EPA review.

III. Hazardous Waste Information, A. Hazardous Waste Annual Reporting:

EPA commends NYSDEC on their successful identification of LQGs from NYSDEC's manifest data for NY's 2017 Hazardous Waste Biennial Report.

III. Hazardous Waste Information, B. RCRAInfo Implementation:

EPA commends NYSDEC in their successful QA/QC of CM&E data in RCRAInfo; and their targeting of alternate 2-year LQG Inspections.

EPA suggests that NYSDEC clarify in their on-line documentation of the use of their State-only NY hazardous waste codes (B-Burn, L- Landfill, R-Reclaim, T-Treatment) to show the ultimate management of hazardous waste on NY processed hazardous waste manifests. These Management Method Codes

were part of NY Manifests prior to 2006 and were deleted from the Uniform Manifest Act of 2006 which doesn't allow non-EPA Management Method Codes.

EPA commends NYSDEC efforts in debugging the myRCRAid on-line application and for their effort in creating the Help Documentation associated with the e-Manifest system.

EPA questions why NYSDEC links SNY and SNN records to formal enforcement actions – 210s and 310s. It is enough to add the SNY day zero value to the formal enforcement actions without adding additional SNY and SNN inspection records.

Attachment 1:

The public notice for Arkema (NYD002218436) should be included on the attachment. The draft permit renewal was Public Noticed on 09-26-18.

Attachment 4:

CA900 Performance Standard Attained – actual dates not yet entered to the RCRA database:

Site Code	Site Name	RCRA ID No.	GPRA Date	Status
828079	Stuart-Olver-Holtz	NYD002215341 Y	12/31/2018	Actual
915002	Allied Chemical, R & D Fa	NYD000632315 Y	03/18/2019	Actual
(entered as Scheduled as opposed to Actual date.)				
915146	Niagara Transformer - Dal	NYD002106177 Y	03/06/2019	Actual
932021	Hooker-Hyde Park Landfill	NYD000831644 N	10/16/2018	Actual
932030B	AKZO Chemicals Inc.	NYD043815158 Y	10/16/2018	Actual
932031	102nd Street Landfill (OI	NYD002123461 N	10/16/2018	Actual
932043	Frontier Chemical - Pendl	NYD991292053 Y	10/16/2018	Actual
(10/16/2018 not yet entered. However, previously accomplished on 8/18/2015)				
932110	Frontier Chemical - Royal	NYD043815703 Y	02/27/2019	Actual
(02/27/2019 not yet entered. However, previously accomplished 8/25/2014)				
932149	Van De Mark Chemical	NYD002116192 N	10/29/2018	Actual
961009	Prestolite Plant Site	NYD001931120 Y	03/13/2019	Actual
(03/13/2019 not yet entered. However, previously accomplished 3/20/2017)				

Attachment 4 continued:

RCRA Corrective Action Sitewide Reporting (pages 1 and 2): EPA is providing the following summary table of NYSDEC's 1st half and 2nd half SFY 18/19 accomplishments with the overall SFY 18/19 workplan projections.

RCRA Corrective Action Event (Sitewide Reporting)	NYSDEC SFY 18/19 Projections – GPRA 2020 Facilities	NYSDEC 1 st Half + 2 nd Half SFY 18/19 Accomplishments [Total]	NYSDEC SFY 18/19 Projections – Non-GPRA 2020 Facilities	NYSDEC 1 st Half + 2 nd Half SFY 18/19 Accomplishments [Total]
CA400 Site-wide Remedy Selection	12	3 + 2 [5]	8	1 + 0 [1]
CA550 Site-wide Construction Complete	5	2 + 0 [2]	7	1 + 0 [1]
CA725 Human Exposures Controlled	1	0 + 0 [0]	8	3 + 0 [3]
CA750 Groundwater Releases Controlled	3	2 + 0 [2]	7	2 + 0 [2]
CA800YE Ready for Anticipated Use (RAU)	10	0 + 0 [0]	6	2 + 0 [2]
CA900/999 CA Process Completed	6	4 + 9 [13]	5	3 + 4 [7]

EPA appreciates NYSDEC's efforts to exceed projections for CA900/999 CA Process Completed, for both GPRA 2020 and non-GPRA 2020 facilities. However, NYSDEC did not achieve its projections for any of the other events, for either GPRA 2020 or non-GPRA 2020 facilities. EPA has set national program goals for 95 percent of the GPRA universe to achieve CA550, CA725 and CA750 by the end of FFY20. EPA has also established the CA800 Ready for Anticipated Use (RAU) event as a breakthrough program measure, indicative of the program's commitment to assure that contaminated land is brought to productive use. EPA requests that NYSDEC focus on accomplishing the missed GPRA 2020 facility projections in the SFY 19/20 workplan.

Attachment 5:

Post Closure – event not yet entered to RCRA database:

360044 Safety-Kleen Corp. Thornwood NYD000708172 11/11/2008 Convert to Order 3/31/2019